

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 264 - SB 189

March 9, 2009

SUMMARY OF BILL: Increases the penalty of resisting arrest from a Class B to a Class A misdemeanor. Increases the penalty from a Class A misdemeanor to a Class E felony if a deadly weapon is used while resisting arrest and requires the court to order suspension of a defendant's driver license for one year if the defendant uses a motor vehicle as a deadly weapon during the commission of the offense.

ESTIMATED FISCAL IMPACT:

**Increase State Revenue - \$10,400/FY10-11 & Subsequent
Years/Department of Safety**

**Increase State Expenditures - \$38,500/One-Time/Department
of Safety
\$1,706,300/Incarceration***

**Decrease Local Revenue – Not Significant
Decrease Local Expenditures – Not Significant**

Assumptions:

- According to the Department of Safety (DOS), 11 computer program updates at a cost of \$3,500 each would be necessary to assign a suspension code. A one-time increase in expenditures of \$38,500 (\$3,500 x 11) is estimated to revise the current system.
- In FY06-07, 49 citations were issued by the Tennessee Highway Patrol (THP) for resisting arrest. DOS estimates that THP would handle approximately 20 percent of the statewide total ($49/0.20 = 245$). DOS estimates 245 would result in revocation of the offender's license and 25 percent of those (61) would have their license reinstated annually. That same 25 percent (61) would apply for a license after reinstatement. The reinstatement fee is \$150 and the license fee is \$19.50.
- Total increase in state revenue beginning in FY10-11 of \$10,381.87 reflects \$9,187.50 for reinstatement fees ($\$150 \times 245 \times 0.25$) and \$1,194.37 for driver's license fees ($\$19.50 \times 245 \times 0.25$).

- State court convictions are 10 percent of the total convictions statewide. According to the Administrative Office of the Courts, there has been an average of 433 state court convictions for Class A and Class B misdemeanors for resisting arrest in each of the past five years. Total convictions, including general sessions courts, are estimated to be an average of 4,330 per year.
- The Department of Correction (DOC) estimates 10 percent of the 433 average convictions (43) would receive a Class E felony rather than a Class A misdemeanor for resisting arrest using a deadly weapon.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth would result in five additional offenders in the tenth year. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 48 offenders. Since this bill creates a new Class E offense, no recidivism discount has been included.
- According to DOC, the average operating cost per offender per day for calendar year 2009 is \$59.80. According to DOC, the average post-conviction time served for a Class E felony is 1.63 years. The cost per offender at 1.63 years is \$35,548.11 (\$59.80 x 594.45 days). The total additional operating cost for 48 offenders in the tenth year is \$1,706,309.28 (\$35,548.11 x 48).
- Any impact to state trial courts can be accommodated within existing resources.
- The increase in classification for some offenses from a Class A misdemeanor to a Class E felony would result in a slight decrease in the number of prosecutions in general sessions courts. The decrease in revenue and expenditures to local government will not be significant.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/lsc